The Rebels Plea,

OR,

Mr. *Baxters* judgement,

Concerning the late Ware, in these Particulars: *viz.*

The
- *Originall of Government.*
- *Coordinate and Legislative Power in the two Houses.*
- *Third Estate.*
- *Force upon the Houses in 1642.*
- *Principles the Houses went by at the beginning, destructive to Monarchy.*
- *Covenant.*
- *Reasons for submitting to the late Government.*

LONDON,

Printed by *Thomas Mabb*, and are to be sold by *Henry Brome*, at the signe of the Gun in *Ivie*-lain, 1660.

HARVARD COLLEGE LIBRARY
IN MEMORY OF
LIONEL DE JERSEY HARVARD
CLASS OF 1915

The Rebel's Plea, Examined.

THe Writers of the Parliament ſide aſſerting highly, the Liberty of the Subiect, think they oppoſe thoſe of the Kings, who plead ſtrongly for Subjection to Rulers, which are things, no way inconſiſtent, for it is very evident rulers doe not take away but preſerve our Liberty. Men being of the ſame nature, deſire the ſame things; & what every man deſires, none can ſecurely enjoy; the natural inequality between men being ſo little, the mutuall yeelding would in all likely-hood be little alſo: The title of the ſtrongeſt though the beſt would be too weak to hold long, ſome one or more would quickly over-match any that could pretend to that, every bodies right was apparently no bodies, if any had the good (or ill ſhall I call it) luck to have any wealth, it was according to *Davids* curſe, to him an occaſion of falling. By the inconveniencies that attend the want of Government, we finde out the nature of it:

Firſt, Our inability ſingly to defend our ſelves from our own Country-men, and from ſtrangers, made it neceſſary we ſhould part with all our power into anothers hands, that he might be ſo able to defend us from both, ſeeing that from both we were in danger to receive injury in every thing we value.

Secondly, Becauſe we are capable of ſo much wrong, and too apt to apprehend our ſelves wronged, when we are not, we muſt reſigne whatſoever Power of Judging or Redreſſing we have in our hands into his hands, and for the Publique ſafety, are obliged to ſubmit to his, though it may ſeem to us an erroneous and partiall judgment; a thing though highly rationall, and of great import to the generall, yet not to be expected from ſelfish or opinionative men, unleſſe the Magiſtrate hath a compulſive Power, which alone, though we have no fear of Forreigners, were ground enough to put the Sword and Scepter into the ſame Hand.

Suppoſing therefore Power to have originally been in the People, which ſhall be afterwards examined; it will not at all upon pretence of miſuſer entitle them to ſnatch it back, any more than I can forcibly take away, what I gave; becauſe I can prove it was once mine: If the people are ſtill Judges of what is to the publick good; and have the Power of the Sword, they are what they were before they were no Subjects.

But Mr. *Baxter* tells us not after the rate of Mr. *Calvin*, who thinks it poſſible for the *tres Ordines Regni* to have a Power of reſiſting Princes, but according to the worſt principles of his moſt *Scotized* followers:

The People may Fight againſt King and Parliament both, for the Common good, if they be both againſt it. Theſ. 365. *Of Obedience and reſiſtance.*

Kings conditions are very little bettered by thoſe men, who free them from the Popes *Supremacy, in ordine ad bonum ſpirituale*, and ſubject them to the Peoples, *in ordine ad bonum Publicum*. But it's ſtrange, that the multitude (for what elſe can the People ſignifie, diſtinct from and oppoſed to the King and Parliament) that the multitude I ſay, ſhould by Mr. *Baxter* be thus ſolemnly inveſted with the higheſt piece of Regality, the Judging of the publique good, whoſe Incapacity, Levity, Ignorance, Naughtineſſe, Unaptneſſe, for even the meaneſt employment of this nature: In his Book againſt *Harrington*, he labours to demonſtrate, ſee his twenty Arguments againſt *Popular Government*. King *James* in the Conference at *Hampton Court*, told us out of experience, how zealouſly the *Presbyterian* Miniſters defended the Kings Power in Spirituals, while there was need of it to pull down the Pope; but that being done, more wiſely put it into their own hands: So now it ſeems, it ſhall fare even with Parliaments; While the King could not be pulled down, but by that Aſſemby, their Omnipotency was every where proclaimed, but now they muſt learn too, to uſe the Power the People gave them for their good, or elſe the people may take it from them.

But ſecondly, This Tenent is deſtructive of its very pretence, as being extreamly oppoſite to the publique good, becauſe to the

the peace of the Nation, which is the onely time, in which we can securely enjoy the benefit of the Governours care of the publique Affaires by having opportunity of following our private ones. There is much fault to be found in the Administration of (perhaps) every Nation in the world; private men injured by corrupt Officers, &c. But that the inconveniences are so great in any one place, that it should be the concernment of the majority of the Nation, to redresse them by a War, whose effects are so calamitous and universall, I durst be tryed by any besides the Needy, Ambitious and Discontented men of the same place.

Man is by Nature a sociable Creature, which though Mr. *Hobs* denyeth, because another had said it before him, is evident in this, that if a man were furnished withall the delights, the most wanton can fancy, and freed from the feare of any assaults; yet to be totally debarred the company of men, would make all his pleasures irksome; nor is there any other imaginable reason to be given, how men of even good parts spend a very vast proportion of their time in hearing the flat and impertinent discourses of idle and weak men and women; were there not a sociable principle in our nature, so that we can no more put off our delighting in the company of men, then we can our being men: We are naturally then inclined to society, which society cannot be maintained without Government, nor Government possibly without the power of the Sword, the natural right of Judging for our selves, and maintaining that judgement by what force we can make, being the inconvenience that attended want of Government; and therefore sure laid down in the very Constitution: He therefore that takes up the Sword without, nay against the Command of the Supream Magistrate, resumes that Right which by mutuall consent all had laid down, denies himself his Subject, stands upon terms with him as equall, which is as much as in him lyes to dissolve the Government, reduce all to Anarchy, and is therefore not more injurious to the Prince, whose Authority he Usurps, then to the Nation whose peace he thus treacherously disturbs.

Publique good and *Liberty*, are two fine words that engage Nations to their own ruine, alwayes insisted upon by those who

have not so great a share of Wealth or Power in the present state of Affaires, as they think they deserve, or at least hope for in the next Change. Their discourses are usually such as these; *What is a Prince more than another man? inferiour in parts and piety perhaps to thousands of his own Subjects, we are all equall, though Statesmen make, & fools believe a difference; A Peasant is not made of the mould of the Earth, and the Prince of the Stars in Heaven; Though Court Flatterers calls them Gods, we see them dye like men; our obedience consists like the Heathens devotion in their Ignorance, who worship for a God, which their Priests knew to be but a Cat or Owle.* When they have perswaded men out of the reverend esteem of the Magistrates Person and Office, their work is half done: Then the disputers of the Original and nature of Government sufficiently shew their readinesse to pull down the House, that they may prey into the Foundation, and it is resolved, The King is but the Common Trustee, if he will wound us with that Sword we put into his hands to defend us, let him thank himself, if we wrest it out again; Laws and Magistrates were made for, and cease to be, when they cease to be subservient to the publique good, as the means hath a being onely in relation to the end.

No wonder if the people gladly embrace such gay new nothings, pitty the simplicity of their fore-fathers, who lost their Rights for want of knowing them, the meanest Artisans hug their new-found Prerogative, and are resolved ere long, the Crown and the Scepter, Laws and Magistrates shall doe their duty, and vaile before them. That they may value their new light the more; it shall be shewed how high time it was to discover it, when it was more then time they had made use of it; the Publique is now in danger, if they will now endure, they then deserve to be ruined.

There being something amisse in the administration of every Government, Innovators can never want pretence to propose somewhat, the redress of which would be gratefull to the people, who have not the wit to consider the much greater inconveniencies of a War, nor the ordinary prudence to observe the conditions of the men which would evince them to mind their own rather then their Countries good.

If some Doctors have determined it lawfull to resist in case the

Publique

Publique is in evident danger of destruction, every grievance shall be the case, not a Tax if unduely as some think leavied, though of a moderated proportion, and employed to the end for which it was raised, highly to the honour and behoose of the Nation, but shall be called its undoing; which is as mad as if a Physitian (nay madder in as much as the concernment is more general, because in desparate cases, he may use desparate remedies, should therefore doe so in all cases.

There is another weak part in the people, which gladly yeelds to any assault, which seditious Oratours secure for themselves unperceivably, that is, they naturally love to hear men spoke ill of, but especially they are never so well pleased as when they hear discourses of the failings of good or great men, that rascally pleasure, which their suiteableness to this principle produces in the Vulgar, procures them ready entertainment, and accordingly all the faults and felicities of the Government, shall be exaggerated to the height, improved to the very rigour of the utmost consequence, the dissatisfied, unpreferred part of the Clergy shall obliquely hint them (if the time for direct railing be not come) with a superfectation of fears and jealousies, at every Lecture; and under pretence of confessing and being humbled for the sins of the Nation in Prayer, for the sins of us, our Kings, and our Princes, under that head shall be instilled into the peoples, not affections onely, but onely their very Faith, whatsoever ill of the present Rulers, malice can conceive and impudence utter: If any represent the necessity of those blamed proceedings, they shall be called Time-servers, Courtiers, and so heard if at all with prejudice: When rayling at Government shall be called Freedome of Spirit, and despising authority, fearing not the face of men in their Countries Cause It is a certain signe they desire to be no longer private men, who thus discover publique mindes.

By whom and how *England* was seduced to undoe it self, in order to the publique good we shall enquire hereafter; I will now enter upon the thing it self; and enquire,

1. Whether the War were not the Warr of Subjects against their Soveraign, where we must examine whether the two Houses were coordinate with; or subordinate to the King.

2. Whether there were any just cause for a Warr, supposing they had a right of resisting in some cases.

3 Whether or no, and how far, the alterations that since followed may be deduced, out of the principles of the first beginning of the Warr.

4. Whether the principles and practise of the Presbyterian Ministers are destructive of all Government? Before I enter upon the first Question; I must according to Mr. *Baxter's* method, consider his previous argument, who in his judgment of the late Warrs, thus argues:

Sect. I.

The Malignant hatred of seriousness in Religion, did work so violently in the RABBLE that I could not stay at home.

This, Though frequently insisted on in his other books, even beyond truth or modesty, and hath seduced many well-meaning Zealots, is yet farr from conclusive; suppose some of the meaner sort of his town, thought it enough to honour the King, though they feared not God: must he therefore think it enough to fear God, though he did not honour the King: that many of the Kings party were drunken, or ungodly; is not to the purpose, but sure it is a peice of separatisme beyond Independency to neglect a duty, because, wicked men would joyne in the doing, nor is this true, with which this argument is enforced.

Nor had I any place of safety from their rage, but the Armies and garrisons of the Parliament: Yes you had the garrisons of the King, I am sure it was no part of the Kings cause, to deny his Subjects protection for being peaceable and godly, your question therefore, *Whether those Subjects that are utterly undeservedly deprived of the protection of Magistrates and laws, are not discharged of their Obligations:* is extreamly impertinent to the thing in hand, unlesse you had proved your demerits to be none, and you having done the duty of a good Subject, upon demand (which you have not once asserted) were denyed the benefit of it by his Majesty, or the Governours of his Garrisons. For sure the unrulinesse of what you acknowledge to be the RABBLE, is no

sufficient

ſufficient ground to ſay, you were utterly deprived of the Protection of MAGISTRATES and LAWS.

The firſt Capacity of Parliaments, is to repreſent the people as free, for I take it for undenyable, that the Government is conſtituted by contract, and in that contract, the People reſerved themſelves ſome rights; Parliaments are the truſtees for ſecuring thoſe exempted rights, and ſo repreſent the people as ſo far free: The rights and freedoms of a people, as a People, are in order of nature before their conſtitution, and excepted and ſo ſecured in it.

The firſt of which aſſertions: That the Originall of their government is by contract being the foundation (though if granted a weak one) ought in reaſon to have been backed with ſome clearer evidence then, I take it for undenyable. I ſhall make it out that the Originall of all Government was not ſo, which though it is ſufficient to overthrow that aſſertion, there being not ſo much as an offer of any Argument peculiar to this Realm to evince its being ſo; yet I ſhall ſay ſomething to that particular.

A Nation, is families multiplyed, and all King but the common Father. Ἐν οἰκίᾳ πρῶτον ἀρχαὶ καὶ πηγαὶ πολιτείας, καὶ βασιλείας *Ariſt.* Where the Nations, there the Government began in private families, κατὰ οἰκίαν βασιλεύεται ὑπὸ τοῦ πρεσβυτάτου, nor election there, The eldeſt was the Ruler, born not made their Soveraign, and this ſufficiently evidenced by the Kingly power, the Power of life and death, which in all antiquity we finde the fathers poſſeſſed of, if there were any need of further proof, the ſmall teritories which in all new diſcovered places of the world Kings enjoy, would eaſily perſwade us their kindred and Subjects to be the ſame; *Joſhua* beat thirty Kings, *Adonizebeck* ſeventy in the ſmall land of *Canaan*, and there might be more for any thing we know.

But ſecondly, Nations if they choſe a King, may ſubmit themſelves abſolutely to him: Either, 1. to be defended from ſome potent Adverſary they more dread, venture a poſſible extreamly unlikely to avoid a preſent imminent deſtruction; ſo the *Campanians* of old to the *Romans*, Liv. *Populum Campanum, Urbemque Capuam, agros, delubra Deum, divitias, omniaque omnia in veſtram P. C. ditionem dedimus.* Or, 2. Apprehending that

Govern-

Government to be the best, as knowing that in such a State, the Kings private intrest is concerned in the publique, which cannot so truly be said of any man, or side in any how well contrived a mixture whatsoever; and withall observing how well other Nations thrive under it, the Roman Historian, though a great adorer of a Republique could not deny, but people lived very happily; *sub imperio plane regio*, under one that was a King indeed: *Urbis sub Eumene nullius liber & civitatis fortunam cum suâ mutatam voluisse*; let others Cities apprehend themselves free under a great many, they found themselves as free as they desired under one Ruler: It is by this time evident sure, that all Government is not by Contract.

I shall now resolve the above cited Section into these foure propositions:

First, That the Originall of this Government was a bargain between the King and People.

Secondly, The People did reserve some Rights to themselves.

Thirdly, The Parliament are the Trustees for securing those exempted Rights.

Fourthly, These Rights of the People, as the people were, before the Constitution excepted, and so secured in it.

Of all which Propositions, there cannot be one true according to all the Law and History this Age is acquainted with. In the most tumultuous later ages past, there hath been (perhaps) something of as good Authority to us, as our own proceedings may be to future times.

I shall oppose onely this: Because in all the Chronicles that ever I met with, the higher I go, the more absolute I finde the King, an ill signe of Rights exempted in the very Constitution, and the priviledges we now enjoy (as to share in the Government) were wrested (and it is easie to track when) by fraud and force from weak or indigent Kings, or given as acts of grace, and acknowledged with thankfulnesse for such: I would desire to be informed, when and where we did meet to chose our King? whether before we lived without any form of Government, or what we had, upon what occasion we changed it? who were witnesse to the bargain between the King & us? where the Copy of it

is

is, where is an exact Catalogue of our Liberties, for the Parliament being to ſecure our exempted Rights are (I ſhould think) to know them, Our fundamentall Laws are not (I hope) like the Traditions of the Church of *Rome*, which no man knows where to find; muſt we look on Parliaments as they on Councels; believe what they at preſent Vote, though we know it then to have beginning, to have been from the beginning. But Mr. *Baxter* may perhaps ſtartle, if out of this very Section: (as errour and lying frequently are their own confuters) which as it is the foundation of moſt Seditious Pamphlets deſerves to be particularly conſidered: I can prove the War againſt his late Majeſty to be Rebellion.

His Argument runs thus: It was not Rebellion, *Becauſe the Parliament are not his Subjects in one caſe*, i. e. *as they are the Truſtees for the ſecuring thoſe exempted Rights, and repreſent the people as free, not as wholly free, but as being ſo far free as that exemption ſignifies, that is, as to ſuch Rights as were in order of Nature before the Conſtitution excepted, and ſo eſtabliſhed and ſo ſecured in it.* From whence I thus argue.

The Parliament could not repreſent us as free, except in thoſe things in which we were free *i. e.* in reſpect of thoſe particular priviledges which in the very conſtitution of the Government were reſerved; now if this Parliament did fight for any thing, which was not ſo reſerved, they cannot be upon that head excuſed, and ſo it was a War of Subjects againſt their Soveraign: *Ergo.* Now whether the *Militia*, taking away the Kings Negative Vote, according to the Declaration of *May* 26. 1642. the 19. Propo. were any of thoſe exempted Rights, let any modeſt man judge.

If the people reſerved ſuch a power to themſelves in this fancied Contract, it is ſtrange it is not *totidem verbis* expreſſed? *De non apparentibus & non exiſtentibus eadem eſt ratio*; is a rule in law to avoid uncertainty, and daſh groundleſſe pretences in things of ſmaller concernment. If we reſerved a Power of reſiſting, what hindred, but our Anceſtors who were neither fools nor Complementers, inſerted not ſome ſuch clauſe in the Coronation Oath at leaſt, as in the King of *Poland*, *Quod ſi Sacramentum*

 mum

meum violavero, incolæ Regni nullam nobis obedientiam præstare tenebuntur.

Against this Capacity of Parliaments, of representing the People as free, and that in the very constitution of the Government, though it is enough to confute it, that it is not founded upon any thing in our laws or Lawyers: I shall offer briefly these two things.

1. This opinion under the glorious name of Parliament, comprehends onely the most inconsiderable part of it, the House of Commons, the Lords representing not the People in any sence, but to this head, I shall say more when I come to examine, how far our late alterations may be maintained out of the principles of those who began the war.

2. It is the judgment of Sr. *Edward Cook* in his *Preface* to 8. *Rep. Fitzherbert Natur. Brevium*; and indeed the unanimous consent of Lawyers, that the best way to understand the nature of a thing, is to consult the Writ that belongs to it, now if the Writ calls them onely to Counsel, *Consilium vestrum impensuri*, &c and *De quibusdam arduis negotiis, quibusdam*; some, which he was pleased to desire their advice in, not what ever they had a mind to be medling in. There be fresh examples of latter times even in Qu *Elizabeth*'s days, of members sent to prison, for mentioning in the House to move the Queen in a thing which highly concerned the peace of the Nation; but a thing above their cognisance, and it was not muttered at as breach of Priviledge.

If they had been intended for such sharers in the Soveraignty in the *very Constitution* of the Government; How are the Burgesses so many more than the Knights of the Shire; are the meanest Tradesmen more capable of ruling then the Gentry, whose thoughts, and education are sure more suitable to it. That alone were enough to make one think, representing to the King, the several Obstructions of Trade in all parts of the Nation, the greatest part of their errant; it being the onely thing they are fit for. Adde to this, Sr. *Edward Cook* in *Pref.* to 9. *Rep.* reckons it up, as one of the Priviledges of Tenants in *Antient Demesne*, that they were not to be returned Burgesses to serve in Parliament.

His

His next work is to Answer two Objections. 1. *The Oath of Supremacy*, saith he, *secureth the Kings Title against all Foraign Claim, either Pope or any other.* The words of that Oath are plainly these.

I. A. B. *Doe utterly testifie and declare in my Conscience, that the Kings Highnesse is the* Onely Supream Governour *of this Realm, and of all other his Highnesse Dominions and Countries, as well in all Spirituall and Ecclesiasticall things (or causes) as temporall.* Thus far it is as clear and positive as words can make it; The Negative part of the Oath, which because it hinders not mens designes, they are content to take notice of, followes and that no Forraigners, &c. If the King is the onely Supream Governour of this Realm, and the two Houses are equal with him in the Government, and we may swear this, and yet believe that, it is time to change not onely our law, but our language; and the Houses should make us new Dictionaries that we may know, what English words signifie.

The second Argument, is one would think convincing, *The two Houses acknowledge themselves His Majesties humble and loyall Subjects assembled in Parliaments.* They petition the King, the King never them, they cannot come unlesse he cals them, nor choose to come, when he doth call them; nor stay one minuit longer than he pleases, and yet these are his equals, not to say his Superiours; but he that hath an equall during his own pleasure hath none at all.

He warns us to take heed of Titles, being it is likely, not ignorant that, King, Monarch, Emperor, Supream Lord, Majesty were every where in the law attributed to the Kings person, but of him in his politicall capacity, *i. e.* the Majesty, Regality of the two Houses: There is as little to be found of the Name as the thing. What hath been now said, may evince that proposition; the Soveraign power is onely in the King to be no groundlesse one; but of that more hereafter: The next Objection is,

Legislation is the most principall part of the Soveraignes Kight: But that belongs to the Houses, as well as the King; Be it enacted by the Kings Majesty, Lords and Commons, &c. Ergo:

Here Mr *Baxter* evidently betrays his cause; before, while it was for his turn, the Parliament fought for, and represented us as free in our Rights, *exempted in the very Constitution, be referred all to the Originall Contract*; but here part of the Soverainty is

proved to be in the Houſes by theſe words; *Be it enacted by the King, Lords and Commons*, termes that came up but yeſterday, and he is ſo conſcious to himſelf of waving his firſt plea, *that he ſaies, he will not go to records and writings*; *i.e.* he knows the example of all laws, the authority of all lawyers, give judgment againſt him; if a bargain was made at firſt, we are obliged to keep it, as well as the King; nor can we encroach with more honeſty upon his original priviledges then he on ours. But the King it ſeems ſhall be one of the three Eſtates, and the onely one, whoſe rights may lawfully be invaded.

Neither is it true, that the Legiſlative power is partly in them, they are (I grant) to conſent to the making new, and aboliſhing old laws; but that is no cogent proof, of the partition of the Supream and Legiſlative power. It is the intereſt of Kings as well as their duty, to make and repeale laws, as they ſuite with, or are repugnant to, the good of their Country, which they can no way be ſo well informed of, as by an Aſſembly conſiſting of men, choſen out of all parts of the Realm: And where there are conſiderable and diſtinct ranks of men, as the Spirituall, and Lay Nobility, and the Commons; it was fit they ſhould all be heard, and conſulted with; their Intereſts being divers, and ſometimes thwarting, it was very like their deſires would be ſo too: It was this way provided, no one part ſhould get a grant by ſurpriſe to the diſadvantage of the others, and thus it was in *England*: and this the reaſon of demanding the opinion of the two Houſes is evident, I appeal to the Body of the Acts themſelves, & here I will not inſiſt upon the elder preſidents, though I might rationally enough from them, overthrow the fancy of our Rights, ſecured in the conſtitution of our Government; but that being ſo univerſally granted; I ſhall cite Acts of weak Kings, and later times. Onely deſiring this thing of the Reader, that he would not think thoſe I quote to be the onely examples to be produced; and ſo poſſibly think, either fraud or force hath cauſed the people to ſuppreſſe their Rights; let him but look upon the Statutes, he will quickly be rid of any ſuch fond imagination. I have therefore purpoſely pitched upon a weak Prince, and inſulting Subjects to begin with, *Anno decimo Edw.* 2. For as much as our Soveraign Lord the King, by

the

the INFORMATION of his Prelates, Earls, Barons, &c. Our Soveraign Lord the King, by the Aſſent, &c. hath Ordained and Eſtabliſhed. So, *Anno* 12. *Edw.* ſo in all other. Our Soveraign Lord the King by the Aſſent of, &c. hath made theſe Acts following. In the 10. of *Edward* the 3. where there is expreſſe mention of *Magna Charta*, *Charta de foreſta*, which ſhews that Aſſembly not unmindfull of their Liberties, or Priviledges; yet the ſame ſtile continues: It is eſtabliſhed by the King, by the Aſſent of, &c. and at the requeſt of the ſaid Knights and Commons. In the 25. *Edw.* 3. The King at the requeſt of the Lords and Commons, &c. 2. *H.* 5. For as much as divers complaints have been made to our Soveraign Lord the King, by the Commons in this preſent Parliament: Our Soveraign Lord the King hath ordained. This will certainly ſhew the Legiſlative power to have been ſolely in the Kings Majeſty in thoſe dayes; and therefore diſcovers the foolery (to ſay no worſe) of thoſe who upon that head aſſert a partition of that important piece of Soveraignty between him and the two Houſes.

Be it enacted by the Authority of this preſent Parliament or Lords and Commons, began in *H.* 7. time, but that that variation of phraſe ſhould make ſuch a conſiderable alteration of Government, and no notice taken either by the King that parted, or the people who received by it ſo large (as is pretended) a ſhare in the Government is not eaſily imaginable: Sure their apprehenſions were very ſmall of it, the notice they took of it being ſo little.

We finde after that, not to inſiſt upon each act or reign, which would be tedious, and he that doubts, may conſult the Books, *Anno* 1. *Eliz.* The Lords and Commons her majeſties humble and faithfull Subjects moſt humbly beſeeching that it may be Enacted, &c. And in the Act of Uniformity (among others) it is. Be it Enacted by the Queens Highneſſe, with the aſſent of the Lords and Commons, &c. to which thoſe words likewiſe inſerted in ſome places of that Act, by authority of this preſent Parliament cannot be thought without great imputation of folly to thoſe members, to be repugnant; and the ſtraining of thoſe words is all that he can rely on; I might here urge the old form, *Anno.* 13. *Eliz.* Be it Enacted by the Queens moſt Excellent

Majesty with the Assent, &c. among many others, I will onely cite one of 4. *Jac cap.* 1. Be it Enacted by the Kings most Excellent Majesty, with the Assent of, &c. Now to speak of the fundamentall partitian of the Soveraignty in the very constititon of the Government, and to make it out by a phrase newly taken up, and to take no notice of the old forms, The King Grants, the King Wils, the King provides, argues one very desirous to say some thing in a bad matter; but when this form is it self varied, and in many Acts both are used, sure the latter was never intended to evacuate the former, and it is very unlikely; so great a change of the Legislative power would passe without any notice, either of King or People; it deserved at least one Act of Parliament to have transmitted it to posterity: when alas we finde even in King *Charls* his dayes an Act framed, according to the old regular way, in the Petition of *Right*; even there when we were not sure giving away, nor unmindfull of our liberties: To the Kings most excellent Majesty, in which the Lords and Commons do humbly pray, that no such thing as they *complained of, &c.* To which the answer was, *Soit droit come est desire.* The Laws are alwayes called the Kings laws, but very improperly, if this new doctrine be true. I conclude all with the words of *Bracton*, an Author, the Antimonarchical party make much use of. *Quod Principi placuit*, i.e. *non quicquid est à Rege temere & ex animi perturbati impetu quodam & æstu præsumptum, sed quicquid ex Magnatum suorum consilio*, [*REGIO* Assensu Authoritatem præstante] *& habitâ super hoc deliberatione & tractatu recti fuerit definitum, legis habet vigorem.*

What the reason and the effect of their assent is, is, not hard now to judge; men have been so often taught to say, that because they must assent to the making of Laws, they have a part of the Legislative power in them, and will call it non-sense and absurd to think otherwise: I will cite *Grotius, cap.* 3. *de jure belli, Sect.* 18. and I the rather cite him, because living in a Popular State, he naturally favoured it so much, as in this point especially of sharing in the Government, he shewed himself tender of the peoples Rights. *Multum falluntur qui existimant cum Reges acta quædam sua nolunt esse rata nisi à Senatu probentur, partitionem fieri potestatis: nam quæ acta in eum modum rescinduntur, intelligi debent*

rescindi

rescindi regis imperio, qui eo modo sibi cavere voluit, nè quid fallaciter impetratum pro verâ ipsius voluntate haberetur; which is not much different from what we cited out of *Bracton*: The sum of which is this, when the assent of the Senate is necessary to any of the Kings Acts, it is not that they share in the doing, but that they truly inform the King what it is he does. He cites the example of *Antiochus*, who wrote as our Kings use, *Nè sibi parerent si-quid legibus adversum jussisset*: They should not obey him in things contrary to law: And *Constantine, nè pupilli aut viduæ* those forlorn people should not lose their priviledges; *etiamsi Imperatoris rescriptum proferatur*, though by order under the Emperors own hand; and yet the world took never any for their equals, or them for any other then Soveraign Princes. The same Author *Sect.* 16 *Non definere summum esse imperium, etiamsi is qui imperaturus est promittat aliqua subditis aut Deo etiam talia quæ ad imperii rationem pertineant.* A Soveraign ceases not to be so, though he promise his Subjects not to exercise by himself some parts even of the Soveraign power. *Adrian* the Emperour swore he never would punish a Senator without the assent of the Senate, which was a greater priviledge then our members can plead; yet never any was so fond as to take them lesse for Subjects, or him for Soveraign.

Princes upon the misinformation of corrupt men, may doe much to the grievance of the Subjects, if they to avoid this inconvenience to the people, shall provide so for their security, as to promise not to exercise such parts, of their power without their advice and assent, first in a Common Counsell assembled (our old style) they shew themselves unworthy of such an Act of grace, who will interpret it to the disadvantage, nay to the dethroning of him that passed it. To apply it to our particular case, suppose the King hath graciously promised not to leavy money on his Subjects without their assent first had in Parliament: The King now cannot do it, the King hath so far restrained the exercise of his power, but is by this any power placed in them? grant they had, it will not reach their purpose; The King cannot leavy mony without their assent, but is there any law that gives them power to leavy any without his, though they may give mony to the King, I doubt it will puzzle a good

Lawyer

Lawyer to prove, they can give the Subjects money to themselves, without which, I doubt, Contribution, Excise, and those other fine words was but Theft and Robbery.

That the assent of the two Houses is required to repeal a law, will by this time, I hope, be a small argument of their partitipation of the Soveraignty; sure I am, the Monarchs of the East were as much limitted, the laws of the *Meades* and *Persians*, which change not at the pleasure of the King the Scripture mentions; even those Princes were sworn to observe the Laws: *Ahasuerus* could not revoke the Decree against the Jews, nor *Darius* though he passionately desired it of his Nobles, save *Daniel*, (*Dan.* 6.) He that would affirm, that to be a mixt Monarchy, or that those Nobles or any else were sharers in the Government; to say no more, would bring a new Doctrine into the world.

The next Objection is in short this, *In a Declaration set forth in the Kings name, It is acknowledged that the King, Lords, and Commons make the three Estates; and the ballance must hang even between them, &c.*

To which I shall briefly say this, it were to the purpose, if it could be proved that the King, Lords and Commons make the three Estates: But the truth is, the Lords Spiritual, Temporal and Commons are the three Estates, not to repeat many. In the Act of Recognition of Queen *Elizabeth*, *We your most loving, faithfull and obedient Subjects, representing the Three Estates of this Realme*; which evidently shews the Queen was not esteemed one. *Anno* 8. *Eliz. cap.* 1. *The Clergy being one of the greatest Estates of this Realm*, it is clear therefore, that by the law, the Clergy is one estate: So when *Hen.* 5. Funerals were ended, *The Three Estates did assemble and acknowledge his Son King.* For their right of being the thrid Estate unanswerably acknowledged by Parliament; it might admit a debate, whether any two Estates may conspire to Vote out the third; sure, if the Commons had been so served, Mr. *Baxter* would have resolved it in the Negative: How comes it to passe, that that part of *Magna Charta* which relates to the Clergy should be lesse significant then any other. To the Kings Concession to that illegall Bill, I onely say this, The law takes no notice of an Act, but when it is by the assent of the Three Estates; nor could the Lay Lords and Commons

mons disoblige the King from his Oath made to the Spiritually; there being a particular clause (besides the general, for securing the Liberty of the Nation) In the Coronation Oath, for the Rights and Priviledges of the Church, nothing but the Church could give them away (if yet the Church it self could.) For it is a thing generally granted, that a generall representative cannot cancel Obligations to particular Bodies, which truth in any other instance people will acknowledge: The House of Commons are the Representative of all the Commons of this Land; the City of *London* hath her Burgesses there: If they upon this fancy of involving each ones consent, and so doing injury to none, should Vote the City paid, the money they borrowed of them, I believe every one would quickly discover the fallacy of that Plea, and explode it as illegall, sinfull, and rediculous; the other case is much harder; *London* is the greatest City, the Clergy is one of the greatest Estates in the Nation, according to 8. *Eliz. cap.* 1. *London* hath some at least, that there represent her, whereas the Clergy hath not so much as one. He saw the impossibility of the Bishops sitting there, their Persons and Friends assaulted, themselves like to be murthered by the rabble (see Bishop *Halls* Narrative, before his last works, the Lords making an Order to suppresse the tumults, the Commons not concurring but encouraging them; the Bils severall times thrown out of the House of Peeres, and brought in the same Session, contrary to all Order of Parliament, considering which, I will say onely this: Let any man consider, in what a condition the Kings Majesty was in then, how injurious to himself, to one of the greatest Estates of this Realm, according to 8. *Eliz.* that grant was, how contrary to *Magna Carta*, to the Rights of the Church by Law, and his Majesties Oath so much provided for; he will easily finde the Kings consent to be extorted and null. If I should upon their Protestation against all Acts passed, during their forced absence, it would not be easily answered.

Having now shewed the Clergy to make the third Estate, which is as much as the King hath been allowed to be of late; the main Argument of coordination is thereby removed, I will adde but this, The Oath of *Supremacy* asserts the King to be the

sole supream Governour; and therefore sure the two Houses are not coparceners. It is declared in *Anno* 16. *R.* 2. *c.* 5. The Crown of *England* hath been so free at all times, that it hath been in no earthly subjection, but immediately to God, in all things touching the Regality of the said Crown, and to no other. And again, The Realm of *England* is an Empire governed by, *One Supream head and King*, having the dignity an Royall Estate of the Imperiall Crown of the same 24. *H.* 8. *c.* 12. unto whom a *Body Politick*, compact of all sorts and degrees of people in terms, and by names of Spiritually and Temporalty been bounden, and ought to bear next to God a natural and humble obedience. This Body Politick consisting of all sorts and degrees, divided into terms, and by names of Spiritualty and Temporalty must necessarily be the Parliament, there being no other body capable of that appellation and description, which here acknowledgeth as such a body it self subject and him Supream.

The next is a large quotation out of *Grotius* in Latine, that in some cases it is lawfull to resist, but they reach not the present Question; the first concerns not Supream Magistrates, but such things as *Sparta* had; the second none at all: the third, If the King aliens the Kingdome, which sure was not our case: fourthly, If the King apparently designes the destruction of the whole people, I will not wrong the King so much as to endeavour to clear him from that: fifthly, If there is such a clause, *&c.* If the King doth this or that, the Subjects are absolved from their Oath, produce such a clause, and shew how the King broke his Trust? Sixth, If there is a division of Supremacy, and the King encroaches, he may be so far resisted. I shall make it out, the Houses encroached upon him; as I have sufficiently evinced the vanity of a coordination. In these cases, *Grotius* thinks they who at their entring into society, contracted for themselves and posterity, intended not to obliege them so far as to dy, rather then resist, *nisi forte cum hoc additamento si resisti nequeat, nisi cum maximâ reip; perturbatione, aut exitio plurimorum innocentium*, unless by resisting they mightily disturbe the Common wealth, or destroy many innocents; that being the Parliaments case, nothing in *Grotius* can acquit them from the sin

of

of Rebellion to their Soveraign, and the duty of reſtitution to the Subjects they injured. And here are the female and mechanick Readers, amuſed with that venerable name, when in all theſe caſes there is but one that looks toward the Subject, and that too upon the groundleſſe fancy of diviſion of *Supremacy*, and with an exception that reaches the Caſe.

The Laws in England *are above the King, becauſe not his Acts alone.*

Whoſe Acts the Laws are, hath been above diſcuſſed, the conſequences of this Propoſition, I underſtand not, becauſe he hath not done us the favour as to let us know its meaning; if it is not more then the words ſignifie, that the King ought to rule, according to Law, and cannot abrogate Laws at pleaſure: the King aſſerted it in all his *Declarations*. In the exacteſt Monorchies I have ſhewed there were, laws which the Kings were obliged by, might they therefore be reſiſted if they broke them? Let us blot then all the precepts of Obedience and Submiſſion out of the Bible, as things fit for that puſillanimous if not crafty age: And let that patience of the Primitive Chriſtians which made their perſecutors admire and love, be thought want of opportunity, not deſire of revenge.

The King was to execute judgement by his Judges in his Court of Juſtice, and his Parliaments was his higheſt Court.

By the Parliament, meaning the two Houſes, they are no Court of Judicature, the Houſe of Commons have nothing that looks like a Court of Judicature, not the power of adminiſtring an Oath, not the power of Impriſoning any but their own Members, notwithſtanding the contrary proceedings of thoſe tender Gentlemen, of the Liberty of the Subject, the Members of the long-Parliament, whoſe Committees could contrary to law impriſon men, and deny them their *Habeas Corpus*. The Houſe of Lord it is true, is a Court of Judicature, but that is as they are the Court of the Kings Barons, whoſe judgment is but miniſterial and not ſoveraign, as appears in this, that though they have power to reverſe the Sentence of other Courts, yet they cannot reverſe their own judgment; a clear argument their Authority is not ſoveraign, whoſe judgement cannot be ſo far reſtrained no not by it ſelf.

For the two Houſes joyned together (as the ingenious Author of the Caſe of our Affaires demonſtrates) they cannot ſo unite or conjoyn, as to be an entire Court, either of ſoveraign as miniſteriall Juriſdiction, no otherwiſe cooperating then by concurrence of Votes in their ſeverall Houſes, for preparing matters in order to an Act; and his Argument is very good, which when they have done, they are ſo far from having any legall Authority in the *State*, as that in law there is no ſtile or or form of their joynt acts, nor doth the law ſo much as take notice of them, untill they have the Royall Aſſent. *Should* it be granted they were, yet it is as evident there was a force upon the Houſe then, as there was in 1648. So that neither the Houſe
* was full or free; firſt, for the Commons, a very great number of perſons fairly elected, kept out upon pretence they had ſome Project, Patent, or Monoply, and kept in *Sr. Henry Mildmay*, Mr.
* *Lawrence*, *Whitaker*; the firſt, the chief promoter and notoriouſly known to be ſo of the buſineſſe of the gold and ſilver thred, a Commiſſion complained of, viewed and examined, the other as much employed in matters of that nature as any man, but they voted as that party would have them.

*S*econdly, Severall members of their party ſate in the Houſe againſt the conſent of the *B*urroughs they pretended to ſerve for, when ſuch men were concerned and complaints made, all the anſwer the honeſt elected Gentlemen could get was, queſtions about Elections were of two private a nature to be conſidered, and would interrupt their proceedings too much. If the Election of any ſuch perſons hath been heard at the Committee, and they voted out of the Houſe, as unduely choſen; that report muſt not be made, whereby a good member may be loſt, as in
* the caſe of Mr. *Nichols*, Mr. *Pyms* Nephew and others.

Thirdly, The *Scots* Army was not ſuffered to disband, that they might awe the King and diſſenting members, and Mr. *Strode* bluſhed not to ſay openly, *They could not yet ſpare them, the ſons of Zerviah were too hard for them.*

Though the Biſhops and Popiſh Lords had a Legal Right (then at leaſt) to ſit; yet they invited tumults to cry, *No Biſhops, no popiſh Lords*: Nay, made a ſtand at *White-hall*, and ſaid, *They would have no more Porters lodge, but would ſpeake with the King*

when

when they pleased: Proof was offered against that Captain, who conducted the Rabble, and sollicited them to come with Swords and Pistols; yet he was not suffered to be brought to answer the intollerable violence upon the members of both Houses: The Bishops were threatned to be pulled in pieces, as they came from the House; they were faine to sleale away for feare of their lives, see Bishop *Hall's* Narrative before his last Work: The Lords made an Order to suppresse the Tumult, but the Commons would not concurr: Severall speeches were made in their Justification; They must not discourage their friends, this being a time they must makeuse of all their friends; Mr. *Pym* saying, God forbid the house of Commons should proceed in any way to dishearten the people, to obtain their just desire in such a way. Were not the names of these Gentlemen that voted not according to the sence of the good members posted up, their persons assaulted, did not Alderman *Pennington*, Captain *Ven* brings down armed multitudes to terrify the members, when the worser party (as they call it) were like to prevaile. That the liberty of the house of Peers was no better preserved, the arguments are too numerous, Mr. *Pym* could tell the Earle of *Dours*, if he looked for any preferment, he must comply with them in their wayes, Mr *Hollis* demanded publickly at the Bar, the names of those Lords, who would not consent to some propositions concerning the Militia sent by the Commons, they got multitudes to deliver Petitions to both houses, and to desire leave that they might protest against those Lords who would not agree to the Votes of the House of Commons, as the Petition of *Surrey*, *Harfordshire*. In this Petition of the poor people about London, against the Malignant faction, it was desired that those worthies of the Upper house, who concurred with them, in their happy Votes, might sit and Vote in the House of Commons, as one entire house, profesling that unlesse obstructions were removed. They should be enforced to lay hold on the next remedy which was at hand to remove the disturbers of the peace.

5. The four next Sections amount to this.

Our Rights were evidently invaded, Shipmoney, the new Oath againſt Law men puniſhed for preaching Lectures twice on the Lords day. The Parliament remonſtrated our danger, we had reaſon to beleeve them, there was a generall endeavour to change the face of things among us, many new orders brought into the Church, abundance of painfull (though peacable) preachers caſt out; ignorant ſcandalous readers kept in, the Iriſh Rebells declared for the King, we ſhould have been butchered by them when they had conquered Ireland.

The Right of the people to reſiſt their Prince, having been examined, we now come to the reaſons upon which they did it.

1. Shipmoney,

Not to inſiſt upon the frequent practiſes of our Kings in that nature; the conſent of ſo many venerable judges, the abundant care the King took to be informed, the employments of it to thoſe worthy ends, for which it was raiſed, were enough with al ingenuous minds (if there were any miſcarriages in the getting) at leaſt to excuſe them.

But ſome men with their Loyalty put of their good nature, with their Religion looſe their civility.

But Mr. *B.* ought to have known, that the King had relinquiſhed his claim to Shipmoney before the Warr, and therefore that could not be a cauſe of it. Kings may confeſſe and forſake their faults, yet ſome ſubiects will not forget them. *Practicall ſerious godlineſſe, was a ſcorne.* That was not part of the kings cauſe, but it was very ſuſpicious to ſee men ſolemnize a few faſts, and think that entiled them to eat other mens bread all their lives after, to ſcruple at being like prophane *Abſalon*, who wore long hare, yet immitate that good man *Abſalon*, that could pay his vow and Rebell devoutly.

The new Orders in the Church, amount to no more then this, Thoſe to whom the adminiſtration of Eccleſiaſticall affairs belong to by the Laws of this land, obſerving ſome neglect order rudeneſs in the performance of divine ſervice, appointed for its future decency, ſome ceremonies, neither commanded nor forbidden in the word of God, but ſome of them were uſed in the

Church

Church of *Rome*, whereupon they were esteemed (or at least wise called) Popish. All that can possibly be said against this, is, that it is unlawfull to use any thing in Divine Service; for which there is neither command nor example in Scripture, (when by the way, the latter confutes the former, supposing there may be imitable examples in Scripture of things uncommanded there) which would make the black and white caps as much Antichristian as the square one: Or, secondly, it is lawfull to use it, but not if it be enjoyned; but this cannot be said by Mr *B.* who pleades for the Civill Magistrates Power in matter of Religion, though I think he is scarce resolved to allow him any thing may be called Power; but that sure is of a strange nature that ceases to be lawfull, when it is commaded by a lawfull Magistrate: Or, thirdly, The being used in the Church of *Rome*, makes it unlawfull to be used in the Church of *England*. A very pretty principle truly, we must differ from them when we have reason, and when we have not reason, when they reproach us with separation out of pride, humour, novelty; the most rationall way to acquit our selves sure, is, to make it appeare, we gladly will come as neare to them in Doctrine and Discipline, as they will to Truth and pure Antiquity. We did not in those things conform to *Rome*, but to the Primitive Church, and reduce those things as it were *ex postlimino*, to their native innocent usage, from which no additionall corruption of any abroad can rationally debarre us.

The last is a trim devise, *That the King would have destroyed us, by the* Irish *Rebels, who professed to raise Armes for the King.* Sect. 10.

I suppose Mr *Baxter* can tell of some in *England* who professed to fight for the King, yet never had his Commission. It seems the King must suffer as the Earle of *Strafford* was said to doe, not for what he had, but what he possibly might have done hereafter. The War against the Parliament, was just upon as good a ground; we feared they would undo the Church and State, with their Army of Sectaries, whom they countenanced, when he did not the Rebels in *Ireland*. If the King had made use of the money raised for the relief of *Ireland*, in the War at home, when the poore Protestants were like to starve for want of it, as the two Houses did; he might have been thought to have

have abetted that Rebellion: The Parliament could make such an inhumane Order for divertion of that money from the use it was raised for, and when the King sent to them to revoke it for their own credits sake, if not for the lives of his poor *Irish* subjects, they according to their usuall rant, Voted his messuage, a breach of priviledge, and made use of that mony to fight against him, and yet they would be thought friends to the Protestants in *Ireland*.

If inferiour Courts of justice may prosecute the execution of their sentence in severall cases against the Kings will, and the Sheriff may raise the power of the County to assist that execution, much more may the highest Court, but the former is true, ergo.

The Argument is this, If the Sheriff may raise the *posse Comitatus* when by the law he is enabled so to do, *ergo*, the two houses, may, though the Law doth not enable them, raise the *posse regni*. Courts of judicature may use such force as doth not disturbe the peace of the Nation, *ergo* the two houses may raise a war is a far fetcht consequence. Again, The house of Peers is solely the Court of Judicature, the major part of which were evidently with the King.

The summe of the next three leaves is. *The warr was not against the Kings person, or authority, nor to change the Government of King, Lords, &c. nor to take away the magistrates power in matters of Religion, as appears by Protestation, Solemne league Covenant, Declarations.*

When I consider their Declarations for the King and their
cc actions against him, all I can gather is, that notwithstanding their bitter remonstrances of the State of the Kingdome, their unworthy, unexamp'ed ripping up, and publishing to the vulgar all the faults and infelicities of his raigne, (which Parliaments were in a greater measure, the cause of in not yeelding seasonable supply) without taking any notice of the satisfaction made and care taken by him for prevention of the like
n for the time to come, or the happy dayes men now remember they then enjoyed (by which wayes, it is easily to render any Government odious to the credulous and undiscerning populacy)

lacy) notwithſtanding, all this and the ſeditious invectives of Pen and Pulpit, The King ſtood ſo clear in the eyes of all men, that the being againſt him was a thing that they durſt not own.

Though they ſpoyled him of his goods, and endeavoured to do ſo of his good name; ruined his friends, preferred his moſt enraged enemies, chaſed him from place to place, (they ſaid to bring him to his Parliament, & when they caught him, would not let him come thither) though they deprived him of all authority as a King, by taking it into their own hands, his liberty as a man, by impriſonment, as an husband by keeping him from his wife, as a father from his Children, as a Chriſtian from his Chaplaines; (all which was done before the armies purge) though they did all this; yet they ſaid (and which is moſt rediculous, ſome of them ſay ſo ſtill) they were for the King.

Quid verba audiam cum facta videam.

Their actions being ſuch, their loyall declarations ſhew them not more honeſt, but more diſſembling; if they had too openly diſcovered, they would never have compaſſed their intentions. For example, one of their firſt propoſals; without which there could be no peace, was, That all officers civill and military, all honours ſhould be conferred on ſuch as were approved by the two houſes of Parliament, ſee 19. *Prop.* The People were willing to fight for ſo gay (as they thought it) a priviledge; Had the Engliſh been a little plainer, (and it was, if men had not been beſotted plain enough,) *viz*, Except all the wealth, honour, power of the Nation be ſhared among us and our friends, neither King nor people ſhall be at quiet, in theſe termes, which differ little in expreſſion, and not at all in ſenſe from the former; the Nation would ſcarce have been fond of being undone in order to the procuring of it.

Some of their Declarations ſpeak very fair, as it was neceſſary they ſhould, and it is a great wonder how ſuch wiſe and wary men ſufferrd others to be ſo plaine, wherein they palpably reduce to nothing, the King and Peers

To begin with the King, ſee the Declaration of *May* 26. 1642. Where they declare, that they have power to depoſe the King,

and the King had deserved they should do so.

We should not want either modesty or duty should we follow the highest presidents of former Parliaments.

See exact collection of all Remonstrances, &c. published by order of the house of Commons, *p.* 265.

Now Parliaments have deposed Kings as *Edw* 2. *Rich.* 2. and that the authors of that Declaration had a particular eye upon those monstrous proceedings, is evident by the following words

All the world knows what they put in act.

In the same Declaration they deny the King his Negative Vote, so that he hath no Vote at all in making or repealing laws, which the meanest Burgesse hath, nay the meanest Commoner hath at least one that represents him, so that the *King* is the onely man in the Nation (except I may now reckon the Clergy too) that is in so high a degree of slavery, as to be bound by laws, he in no sence concurrs to the making of. So farr was he in 1642. from being a *King*, that he was not so much as one of the free-borne people of *England*. This new Doctrine they can prove (as what could not the two houses do in those dayes,) from the very forme used, by the *King* to those bills he fancied not [*Le Roy Saviserâ*] which (say they) is a suspension rather then a refusall of assent.

A suspension (if it must be called so) was ever heretofore a thing of that validity, that during it, they are not able to quote one law ever reputed in force. If they thought the law to be otherwise, they might have done very well to have declared all the bills dashed, for so many ages, for want of the royall assent to be obliging laws.

But (alas) that forme intimates another thing, not so pleasing, *viz.* That notwithstanding the two Houses are the *Kings* great councill, and have presented their advice in their concurring Votes, yet [*le Roy Saviserâ*] the *King* may advise with other men (as it is notorious in all Chronicles to have been the practise) and take their advice if he like it better. How little of a king they intended to leave him, see nineteen Propositions sent the second of June in 1642 (it is to be observed what I cite the Parliament in its purity (as the phrase is, *Ex. Col. p.* 307.

the

the ſumme of all which are, *That all Peers, Judges, Councellers, Officers, civill and military may be approved by themſelves, all Eccleſiaſticall affairs, Forts, Caſtles, Pardons, Cenſures, New Oaths, The Mariage Government of his own Children, may be at the diſpoſall of the two houſes.* After the forementioned declaration of *May* 26. the ordinance concerning the Militia, theſe Propoſitions, I would willingly know in what conſiſts the authority of the King, which Mr. *B.* ſaies, *he and they ſwore, and fought to defend*; Certainly they could not call him Soveraign without a jeere. If the houſes have once this Power, let them be ſworne to defend us, and no longer let us mock God, the King, and the world with giving an oath to a man to do that we our ſelves have rendred it as impoſſible for him to do, as the Chaire in his Preſence Chamber.

The King complaines in ſeverall of his Declarations, particularly that of *Auguſt* the 12. 1642. of ſeverall inſolent ſpeeches which paſſed in the houſe of Commons unreproved, as of Mr. *Martin*.

That the Kings Office was forfeitable, that the happineſſe of this Kingdome did not depend upon him, nor any of the royall branches of that ſtock, and of Sr. *Henry Ludlow*, *That he was not worthy to be King of* England. p. 550. *Ex. Coll.* He tells them plainly in his anſwer to their Declaration of *May* 26. 1642. *That of that monſtrous language by the help of God and the Law, he muſt have ſome examination. Ex. Coll. p.* 28.

But it may be ſaid theſe things were done in the height of paſſion, when the ſence of thoſe grievances they lately fancied they felt, was freſh upon them. Afterwards they were more moderate: as I have ſhewed how the Parliament went at the very beginning of the Warr upon thoſe principles, their freinds now would be thought to deteſt; I will briefly demonſtrate they went by the ſame when the Warr was ended, even whilſt it continued Presbyterian, for I ſhall not once mention what was done after the ſecluſion of Members by the Army, and ſhall quote no Hiſtorian but him who wrote always for the Parliament Mr *May* who in his *Hiſtoria Parl. Breviarium, p.* 146 *tells us, that on the fifteenth of July* 1644. *there were propoſitions ſent by the hands of ſome Lords, and Commons, and Commiſſioners for the* cors

The King looked upon those propoſals as derogatory to his Crown, injurions to his people, as inconſiſtent with the quiet of the Nation, as of his own conſcience, and therefore demurred upon them.

The Earle of *Lowden* tells the King in a trim Oration, that unleſſe he will agree to thoſe propoſitions which himſelf acknowledges very hard ones, it is to be feared, he would be depoſed, and the nation ſetle in another way of Government without him or any of his Poſterity. The King reſolved, he would not give them his Crown; they muſt take it forcibly if they would have it, after that, he was their Priſoner, now he was from his evill Councill, one would have thought they would have deſired him at leaſt, not have denyed him to come nere his Parliament.

His uſage was various, ſometimes their malice made him know what it was to be confined, other times more civilly bitter, it allowed him as much ceremonious Royalty as might put him in mind of what he had been.

About *Dec.* 1647 (for want of ſomething elſe to do) they treat with the King, but he muſt grant foure previous propoſitions, the firſt and laſt of which would ſerve to dethrone him, and the other two to affront him, which certainly they would never have asked, had they not reſolved to be denied. But great ills cannot be maintained, but by acting greater, they would not allow the King any power, becauſe they feared what they deſerved, as it is uſually ſeen, that they that ſin beyond all example, think they ſin beyond all poſſibility of forgiveneſſe, ſo theſe (though they might have had the greateſt proviſion for their ſafety, themſelves could imagine, ſo that they needed fear nothing, but guilty conſciences) thought the King and themſelves could not both be ſecure.

Wherefore, on the third of *January*, the Kings refuſall to ſigne the bills was wholy debated, & it was ſtrongly urged, how the King by denyall of thoſe bills, had refuſed to protect his people, (*viz.*) *by denying to part with the* Militia, *without which it is impoſſible he ſhould protect them ſo much as a conſtable can*) upon which ſcore their ſubjection was no longer due, it was time for them to think how to ſettle the Nation without him, accordingly upon mature deliberation they frantickly reſolve upon

on it, and on the seventeenth of *January* Vote, *They will never make any addresses more to the King, nor receive any message from him*] May *Breviarium Hist. Parl. p.* 18.

At the beginning of the War it was necessary for them (though they did acquite contrary) to say they would make the King a great and glorious King, and it was not impossible, but some fools might beleeve them: but that after these Votes passed, publ shed and maintained in a declaration set out to that purpose, & suitable usage, they should dare to this day to professe they alwayes were for the King, his Person and Authority, is arrogantly monstrous, unlesse at the same time they voted away their Princes liberty they thought they could vote away his Peoples reasons too.

It is true, they afterwards recalled those Votes, and sent some termes to the King, which the necessity of affaires caused him to condiscend to, but if the remembred what previous concessions there were, what an odious preface, how harsh the Propositions were to the disparagement, as well as the undoing of all his friends? what fear themselves were then in of their own army? will think the King obliged to thank them only when he hath nothing else to do?

How well the Pretences for the King have been seconded, with unfit performances, hath been in some measure seene, the next enquiry must be about the Peers; whether the pulling the sun out of the firmament, hath been an effectuall way to make the starrs shine more gloriously. The Bishops at the beginning of the Parliament, were at the least so many Barons (if not the third state) and had as undoubted a right to sit there, as the law could give, to any man or men of this Nation, they were a more ancient (I add, and a more considerable part of the Parliament then the whole house of Commons, as having part of the judicative power in them, which the other had not) yet were they affronted, menaced, and endangered by tumults, which the Lords would have suppressed, and the Commons encouraged. But of this before, The Lords (seeing the Commons would not joyne) appoint a writ (by the advice of the Judges) to be directed to the Sheriffs and Justices upon divers statutes (which issued accordingly) to suppresse and hinder all tumultuous resort,

sort, in obedience to which the Justices and other ministers appoint the Constables to attend about *Westminster*, to hinder that unlawfull conflux of people, which the Commons without any conference with the Lords, to know upon what reason, or what Law that writ was grounded, Vote it a Breach of priviledge, and send one of the Justices to the Tower. *Ex. Col. p.* 537.

The Bill concerning the *Militia* (a most considerable bill) was sent to the King by the house of Commons alone, notwithstanding the expres refusall of the house of Peers, as themselves confesse. *Ex. Col p.*59. However, they may talk they were for the old constitution of King, Lords and Commons, it is evident the grandees were for neither full and free; but so many of each as would serve their turne. After the bill for the *Militia* had been rejected twice in the house of Peers, it was contrary to all law, reason, Presidents, forced upon them again, and to fright the Peers into agreement, it was said there. [*That whoever would not consent, &c. was an enemy to the Commonwealth,*] and the same day Mr. *Hollis*, contrary sure to the freedom of Parliaments, demanded to know who were against it; much to this purpose may be read in *Ex. Col p.*547. 548. What was that ridiculous proposall that the minor part of the Lords might joyn with the Major part of the Commons, That threatning Petition that they might protest against the dissenting Lords, and that other, that the good Lords might sit in the same house with the Commons, but devices to aw the Peers? What was the unparliamentary course of forcing bills upon the House of Lords after severall times being cast out, but a down right telling them, *they were resolved to take no deniall.*

The House of Commons made an order against an established Law, concerning the Common Prayer, the Lords made an order for the observance of it, which the Commons very mannerly declare against, the nineth of *September*, *Ex. Col p.* 526.

The house of Peers was certainly of very great authority, when an Order of theirs in behalf of an established law, was not equivalent to one of the lower House, in direct opposition to an established law

Again, The protestation being so early, whatever the meaning

ing was, the termes in common prudence ought not to be too offenſive, but preſently they perceived that their ſureſt friends the haire-brained Sectaryes would not endure to be bound [*to obſerve the Doctrine of the Church of England*] Whereupon thoſe words in the proteſtation were explayned by a declaration of the houſe of Commons onely, to be intended onely ſo far, *as it is oppoſite to Popery*, The houſe of Peers taking an Oath, to be too ſacred to admit of ſo jugling an interpretation, refuſed to joyn with them in it. Preſently the houſe of Commons (who would accept of the Peers aſſent, when it might be had, and when it could not, would act without it, ſo excellent obſervers were they of the ancient conſtitution) voted it by their ſole authority, *That all people who would not take that Proteſtation ſo interpreted, unfit to bear any office in the Common-wealth*. After all theſe actions, I hope a few good words will not acquit them: Nor will it ſignify any thing with intelligent men, what is next urged.

That, *The Covenant was for King and Parliament.*

The Covenant is lyable to more exceptions then at preſent I am willing to take, the very deſigne was extreamly ſcandalous, and as great a blow to Religion, I am perſwaded, as it ever received in the world, as repreſenting it, to be the parent of the worſt of vices, rebellions, ſacriledge and perjury: ſome men have adventured to teach, that God is the author of all ſin: theſe men come very neer them, that can do the worſt of Villanies upon his ſcore, fear God and break his commandements; and all upon the newly revealed Doctrine of Piety and Plunder.

Surely, Humility, Patience, ſelf-deniall, taking up the Croſs, loving enemies, praying for perſecutors, are things commended only to puſillanimous and morrall men. Hath the ſpirit that came down upon Chriſt in the forme of a Dove, appeared ſince in the ſhape of a Vulture or a Roman Eagle? was it weakneſſe, not religion, that kept the primitive Chriſtians obedient; muſt whatever they ſaid about Rebelion be conſtrued with this tacite reſerve, untill we have an opportunity. We read in Scripture of a bleſſing laid up for thoſe who in defence of Chriſt and his truth part with their Lands, Houſes or Life; but not of any for thoſe, who upon that ſcore invade other mens. That there

were

were no rewards appointed for those who killed Tyrants, *Buchanan* esteemed it as a defect in policy, and it is one in religion too. He might as easily observed it to be an omission in the Law of God as man.

The quarrel was not then about Doctrine so much as discipline, our articles were esteemed Orthodox, our discipline not apostolick enough: Their discipline *in terminis* in Scripture, and as a command to introduce it with fire and sword, in defiance of Prince and Laws, are surely to be found in the same chapter.

These tender Consciences are very prety things, that dare not conform to an indifferent Ceremony, in obedience to all the authority the law of *England* takes notice Civill or Ecclesiasticall, without an expresse command or example of Christ or his Apostles; and yet without either, can take up arms against their Soveraign, plunder and slay all, whose Consciences are not of the same size.

The Covenant (not to mention upon what grounds they who at first Idolized it, do now look upon it, as an abominable Idoll) lyes open to very just, and very many material Objections; It being my businesse onely by the by; I shall onely intimate those that are so obvious, that they cannot escape a very ordinary observer.

First, It is directly contrary to the Oath of Supremacy, formerly taken, wherein they swear, *the King to be the onely supream Governour in all Causes as well Ecclesiastical as Temporall*; which power they there swear to defend; and by resolving to reform the Church without, nay against his direct Command, they now as absolutely (with an Oath too) deny it.

Secondly, It is contrary to the Oaths of Canonical obedience to their Ordinary, Bishops, Chancellors, *&c.* which those of them which had entered into Orders took, and conscienciously observed by swearing their utter exterpation; a Government they by subsciption testified to be lawfull, which judgement many of them were known, never to change till it was their interest (the late usuall season of conversion) so to do. And some think a good Bishoprick would seduce many of them to their old errour again.

Thirdly,

Thirdly, Eccleſiaſticall affaires never were, nor can be by the law of *England* (which they broke even in this very act of Covenanting for the laws, as they ſaid) conſulted on in Parliament, but onely to have (the civill Sanction) and that after (the law is expreſſe) they have been determined by the Clergy in Convocation: See [*The Reformation of the Church of* England *Juſtified*] a whole book to that purpoſe.

Now whether the Aſſembly of Divines, being not called by the King, who alone hath power by the Law to do it, nor elected by the Clergy, who alone have power to ſend (the true Convocation not diſſolved) may be called, *The Clergy in Convocation*: I will leave to any one to determine, and onely obſerve, that as in other illegall Acts, the late Powers proceeded according to their example; ſo in this particularly, Their naming what members they pleaſed, without Election of the Clergy, to ſit in the Aſſembly, was a fit Preſident for *Oliver Cromwel* to call whom he pleaſed, without choice of the Country, to ſit in the little Parliament. The State and Church was pulled down the ſame way.

Fourthly, The Covenant could not be impoſed, according to the Doctrine of the long Parliament, who *Ex Col. p.* 859. tels us, *Men are not to be compelled to be ſworn without an Act of Parliament*, which certainly, the Votes of the two Houſes are not: I ſhall not proſecute theſe things any further, but obſerve ſome few particulars in the Covenant it ſelf; and onely wonder, with what face (not to ſay, with what Conſcience) men, the profeſſed Champions of our Liberty, and of no part, ſo much as our Conſciences, in regard of Oaths, impoſed even by an unqueſtionable Authority, could on the ſudden uſe ſuch barbarous rigour toward the freeborn people of *England*, for not taking that Oath, which themſelves had (according to the fore-cited Doctrine) no power to impoſe; and the others had the command of the Prince, Law, and unanſwered Reaſon to refuſe; at leaſt, they could ſay what themſelves once thought enough, it was againſt their Conſciences.

We ſhall now examine, whether there is any amends made in the Materiall Cauſe, for the faultineſſe of the Efficient; and there is a preſumption that it is ſo; ſure, ſuch good men would

not involve their Country in the miſeries of a War, reſiſt their Prince, but in an order to a thing that was very excellent, if not neceſſary: That aſſertion in the Preface which gives chief countenance to the undertaking, is a moſt horrible falſity, that it was [*according to the Commendable practiſe of theſe kingdomes in former times, and the example of Gods people in other Nations.*]

England hath behaved her ſelf ſo commendably, that it is impoſſible to make it out, to have been her practiſe: whoſoever ſwears it to have been, untill he can produce his inſtances, if he doth not meet with very charitable perſons will be looked upon as one horribly Perjured: The Churches of God (if there were any before Presbytery Rebelled into a being) whoſe examples may be Rules to us; muſt be either the holy men before the law, under the law, or the Primitive Chriſtians, before Religion was made a Bawde to Intereſt. He that thinks there can be a thing fetcht from their doings in favour of this league, let him ſerve that cauſe ſo far as to attempt [*The Hiſtory of Covenants*] and ſee how many examples he can produce of Fighters with their Prince, for not introducing a form of Worſhip they better liked of, than what was by law eſtabliſhed.

The Covenants we read of in Scripture, were not againſt the King, but with the King, nor when the Kings refuſed, doe we read that the Prophets ever exhorted the People to ſuch attempts. But no remedy there is, men muſt be undone, unleſſe they will ſwear with hands lifted up to Heaven; this matter of fact, though they do not know it to be ſo; nay, though they know it not to be ſo; and which is prodigiouſly ſtrange: One of the firſt arguments that commended it to the world, is a direct contradiction to this aſſertion, when the Covenant with a Narrative tells us, that there never was ſuch a Thing ſeen in the world before.

It might be obſerved, that Errour is far incorporated with her Tenents, that what is true in it ſelf, is falſe when they ſpeak it; as almoſt the very firſt word [*All living under one King*] according to the Declaration of *May* 26. 1642. and the Doctrine that juſtified the War from being Treaſon, though againſt the King, becauſe he was not King in his Perſonall but Politique capacity, *i. e.* the two Houſes, to war againſt whom, by that law

was

was Treason: according to this, I say we have three Kings in as much as we have three Parliaments in the three Nations; and in my weak judgment, appointing all Officers, Declaring who are Offenders and uncapable of mercy; resolving to reform Church and State according to their own modell, against the Kings expresse Will and Command, are no great evidences of living *under him.*

The first Article is, *To endeavour the preservation of the Religion of the Church of* Scotland, *in Doctrine, Discipline &c. The Reformation in* England, Ireland, *according to the word of God, the best example of the best Reformed Churches, and to endeavour to bring the three Kingdomes to uniformity in Church Government, &c.*

By those words, *according to the word of God*, They use to mean prescribed in it, upon which, where do you finde such or such a Ceremony was the common Question: But so, the forms of worship in *Scotland* used in Marriage, Burial, Preaching, Discipline by Classes, Assemblies, higher and lower, are not so well known in *England*; muchlesse so clear in the word of God, that every Artisan can in an instant be so assured, that they are there as to swear it in judgement: this Oath is by so much the more oppressive & intolerable, that it is not satisfied with a quiet submission to, and a patient enduring of their intollerable insolencies (in which respects it is more barbarous than the Engagement;) but obliges every man zealously and constantly to promote it.

There is in this Article more jugling then is tolerable in so sacred a thing as an Oath; their friends being of so severall parties, neither of which would be content, the Church should be reformed according to the others modell; There are severall words put in which that party, which wit or strength, or accident shall set uppermost at last; may interpret to their own sense, *i. e.* advantage. To please the Presbyterians: *The Church of* Scotland, *Doctrine and Government is sworn to be preserved, and all the three Kingdomes to be brought to the neareſt conjunction and uniformity in Confession of Faith, Church-Government, Directory, &c.* Now this can be compassed no otherwise, then by reducing all to the pattern of *Scotland*, that being before sworn to be preserved.

But that the Sectarian Brethren of no sort may be displeased, the word of God is expressely said to be the rule, by which each Sect were sure of carrying the cause their own way; and if any had a peculiar fancy to *New-England*, or any other Church, he thought better of, the term of the *best reformed Church*, secured him to them; and he was by that assured the day was approaching, wherein the men of his perswasion should triumph. That the Covenant was taken in the various senses, and with different hopes every one knows, and that the ambiguous penning gives each party ground for it, it is fondnesse to deny.

To please those who were for Church-government, they Covenanted against *Schism*, but least they should displease those who were against Church Government, they could never be brought to proscribe (nor while they had use of them, to fight against the King, so much as to tell who were) Schismatick.

Surely, Conscientious men, who had sworn to extirpate Schisme, Heresie, and whatever was contrary to godlinesse, would have thought *Antinomians*, *Anabaptists*, *&c.* or some other of those hard names that then swarmed about the City, to have come under that head; but in the same sense, as fighting against the King is being for him; being against Schismaticks, is putting Armes and Offices into their hands.

The *Common enemies*, this Oath engageth men against, must not be explained too far, least it discourage their best friends, Papists and Prelatists may safely be named; for the rest Mr. *Henderson* explicated them to be the *Syrians* and the *Babylonians*.

The second Article, is to extirpate, *Archbishops*, *Bishops*, *&c.* whom (there being no need) I shall not at present plead for; only this, That Government in the judgment of very many Covenanters, Clergy and Lay, was inexpedient onely, and not unlawfull, upon whom the guilt of Perjury lyes very heavy, for breaking their former Oaths, leavying War against their King, disturbing the peace of the Nation, turning so many gallant men convict of no crime, but their lands, which other men had a minde to be guilty of, and they had as good a right to as the law of *England* could give; and all upon the sole point of inexpediency: Into this point I shall dive no further; but take

some

ſome ſmall notice of the reaſon here rendred, for this certainly illegall Act of pulling down that Government of the Church, without the Kings Authority, *leſt they be partakers of other mens ſins.*

I doe not apprehend that ever I read words more deſtructive to every Government, and to the peace of every Nation in the world, they ſound thus; [Whenſoever there is a Government or form of worſhip in the Church, which we doe not believe to be according to the word of God, we are bound in Conſcience (nay they of another Nation are, as the *Scots* were to us, who upon this Reaſon, Vow to extirpate our Biſhops) to take up Arms, though it be againſt our King, and reform, for if we doe not, we make our ſelves guilty of other mens ſins.] A propoſition that creates a perpetuall Apology for crafty men, and juſtifies, nay, neceſſitates the vileſt attempts of deluded ones. The *Anabaptiſts* in *Germany* did, the *Separatiſts* in Queen *Elizabeth*'s dayes attempted no more then this warrants. If this Doctrine were true, I wonder the Prophets and Prieſts of old, that lived under Idolatrous Princes were not carefuller of their own ſouls, and lift up their voice like a Trumpet in another ſenſe, than the Scripture mentions them to have done. There cannot eaſily be imagined greater occaſion for ſuch irregular proceedings, if they are at all juſtifiable in any Nation, then in the Jewiſh; their Princes being ſo often and ſo ſtrangely guilty of Idolatry, (a crime clearly by their law deſcribed and forbidden) yet we doe not finde that the People ever thought themſelves, or the Prophets ever told them, they were obliged to attempts of that nature. I will uſe my pen no longer in this Argument, becauſe it ought to be confuted by the ſword of the Civill Magiſtrate; ſure I am, it will pull down every Government, that doth not pull down it: More eſpecially, by reaſon of that clauſe in the Concluſion, wherein, each private man ſwears to *go before other in the work of Reformation*, words of very horrid import, as obliging every man to diſturb the Nation in purſuit of his own or anothers dreams, if he could but fancy it to be a Reformation; their full latitude might have been underſtood, if *Wallingford* houſe men had continued much longer, poſſibly not to the good liking of the firſt contrivers, but ſure to their eternal in-

famy, who first infused into men such pernicious doctrine, and then because the horridness of it would affright men of any good nature from it, bound them to it by an Oath; and lastly, gave them swords into their hands to justifie the most desperate conclusion, the maddest can draw; and all this, *As they shall Answer it at the great Day.*

A little after, they expresse a right Presbyterian spirit, a vehement desire to see all Christendome in a flame, That, *Their proceeding may be encouragement to other Christian Churches groaning under, or in danger of the yoake of Antichristian Tyranny to joyn in the same or like Association or Covenant.* In which words, all people whose Princes are Papists (or something else, which they did not stick formerly to call Antichristian) are absolved from their obedience and encouraged to Rebell, and those who are not under the yoke yet: if they are in danger of being so (and how small a thing creates such a danger, *England* may remember) they may be rid of that and their Allegiance together, and provide for their security as they please. Here is a great want of Prudence to give Forraign Princes such timely notice, of such projected Rebellions, and of the men they are in danger of: And a great want of charity to Forraign Churches, to represent them all as enemies to the State, whereby they may be put out of their good esteem if not protection.

But some men have Preached and Printed, not onely downright Popery but Prelacy also, and Ceremonies also to be *an Antichristian yoke, and to be in danger of it*, hath been formerly accounted to tolerate some things now used; what in their judgment is to be done in such a case, I must not repeat, least they should say I had a design to render them suspected, and so odious to the present Government.

I shall conclude this point with this one note, The Doctrine that allows private men to resist Magistrates, upon the score of Religion, is in it self so horrid & black in its consequences, that none dare own it, that can defend themselves any other way, accordingly the fancy of the coordinate Power of the two Houses was entertained with mighty applause, by the Brethren of the Presbytery, because it salved this grand Objection of Rebellion; a sin (which after that happy discovery of their being

free

free from) they disclaimed against, no men more: *Prove the King Supream, and then I will yeeld my self a Rebell*, so Mr. *Baxter* in his *Preface*; And so they all acknowledging it unlawfull for Subjects to resist their Soveraign, contrary to language of the former Pamphlets, Rebellion: they gladly acknowledged to be a sin in all men but themselves; But that device of coordination, suiting onely to this particular juncture of affaires, by no means serving to acquit the *Scots* tumults, or Armies, or to incense their brethren beyond sea, they having no Parliament, or of no such pretence of share in the Government, and very like to oppose such designes, if they had any such power, the Covenant revives the former Doctrine, and advises the Churches beyond sea to set themselves free, as if errour in points of belief did deprive Princes, (though it doth no man else) of his natural or civill power or rights: Thus are they loath any one Nation should be peaceable or prince happy.

We shall now examine that clause of the Covenant, themselves so much boast of, *viz.* that concerning the preservation of the Kings person.

To preserve the Kings Person and Authority, in the preservation and defence of the true Religion and Liberties of the Kingdome.

That they deprived the King of all Authority, is proved already, That his person was not the King, themselves acknowledge and contend for, *ergo*, he is not at all provided for in this Article. That the putting the King to death was no breach of Covenant; I might prove many wayes, but I shall refer Mr. *Baxter* to Mr *Goodwin* his fellow-labourer in the War and Word; who in the defence of the Honourable Sentence, argues thus, shrewdly, I think, *ad homines*, p. 52. *He was not then a King, but a Subject, and so lyable to processe of law*; for that blood they so often preached him guilty of, *Deposed he was* (saith he) *by themselves and their party*; when they denyed subjection to him, withdrew their obedience from him, acknowledged a power superiour to him, *viz.* the Parliament, leavyed War against him as a Traitor, as an Enemy to the Kingdome, chased him from place to place, and at last imprisoned his person, and there was no clause in the Covenant, for the preservation of a *person* that once was *King*.

Nor

Nor doth this Article promise us any thing better, when they shot their Cannons directly at the place where their treacherous Informers discovered the King to be; they said, it was in his defence, because in the defence of the two Houses, where his Authority (forsooth) resided. Another cast of the same Logick may make it out, that deposing, nay killing the King, if in the defence of true Religion shall be preserving him too, because in defence of that, where his Person may as properly be said to reside, as his Authority where they placed it. This Article at the best is but conditionall, if he defends what they please to think or call the true Religion, and the Liberties of the Kingdome. And what his performance was in their judgement, I might cite almost all their Sermons, Pamphlets, Declarations; but I will content my self till further provocation, with the Admonition of their gude brethren of the Kyrke of *Scotland*, *May* Hist. p. 108 *That he was very much guilty of Idolatry, Prophaneness, of the Murder of many thousands of his best Subjects*; with much more to that purpose. If I delighted to render the Presbyterians odious, here I might do it to purpose, but transcribe some of their Sermons, and the work were done. I shall for this time forbear, and onely use a little, which is necessary to my purpose, and commonly known, and already taken notice of by Mr. *Goodwin*, whose book lying under so publick a Censure, is very like to be read by most: Mr. *Love* in his Sermon at *Uxbridge*, told us, *That the late King was the troubler of* England *as* Achan *was of Israel*, subjoyning, It was the Lord that troubled *Achan*, because he troubled Israel Oh that in this our State Physitians would resemble God, to cut of those from the Land who have distempered it! *Melius est ut pereat UNUS quam Unus.* In the same Sermon, *Men who ly under the guilt of much innocent blood, are not meet persons to be at peace with, till all the guilt of blood be expiated or avenged, either by the sword of the law, or the law of the sword.* The Independents justifies themselves out of the Presbyterians principles and practises, *Gold defence* p. 94. The Ministers of *London* themselves, and the Church of *Scotland*, *Charge him, being the greatest Delinquent, guilty of the blood of hundreds of thousands of Protestants, the bloodiest man under heaven: He was summoned and Arraigned in the sight of God and his people, Christ and*

and devoted to perdition, worse than any Ahab or Antiochus, with exhortation to curse all those in the name of God, that made not War against him, as bitterly as Meroz *was to be cursed, that went not out against the Canaanitish King*: Almost in all the Sermons, Prayers of seven years. He was called, *Opprobium generis humani, The most bloody monster and miscreant under heaven.* That I am so civill as to spare names, I might use in this argument, I hope, will procure thus much, that Mr. *Baxter* if he thinks fit to reply will do it fairely and calmely; However, my advantage is not quite lost, but remains still to be used at pleasure over persons, he very much esteems; and for their sakes I believe, I shall fare the better.

That they preached against putting the King to death, the Presbyterian Ministers urge strongly and with much applause for themselves, though indeed it signifies as much as just nothing; the reason is clear, while the Parliament Declared, and the Army fought for, Presbytery and the King opposed it, none were more vehement obstructers of all the designes tending to his restitution then the Ministers; for so long they had hopes by that means, that all the Lands, Power of the Bishops, Deans, and Chapters, the best Parsonages should be divided among them: But when the Independents out-witted them, and seemed to have perfectly learned their lesson they taught them of declaiming against something, as an humane invention, in the form of worship of those whose lands they longed for; then and not till then, they would have been content to have joyned with the King against that Army, themselves had joyned with and raised against the King. When the Votes no further Addresse were first passed by men they had hopes of, which of them then abhominated the dethroning of their Prince. I shall make this quere (if it be not absurd in so clear a matter to make a quere)

Whether if the Parliament and Army had joyned together as one man to set up high Presbytery, divided the Church lands among them, and the King had refused to yeeld his assent to such illegall Acts, they would have pleaded the Covenant in his behalf, and thus loudly talked for his restitution to his Authority, let their friends speak.

That upon such terms as they pleased, they would restore him, is no more then the very Army would have done, who after the Sentence passed, came and offered him conditions.

They merit the lesse by their last appearing (as they call it) for the King, in as much as in that juncture of affaires, it seemed very unlikely they should subsist without him: The Covenant were exploded every where; the Army called it a Carnal thing; the Sectaries in the City, said it was a thing ridiculous to unhorse Episcopacy and set Presbytery in the Saddle; to be rid of my Lord Bishop, and doe twice the homage to Sr. *John Presbyter*; their own arguments were retorted upon them: the Apostles were not Lord Bishops, shew where they had their thousands *per annum* changed into? the Apostles were not Parochial Ministers, shew where they had tythes that at such a time as this? they would have been content to have been maintained by the Common Enemy against their best friends, is what they think highly obliging? This was that great piece of Loyalty, they would have had the King saved, when it was the onely way to save themselves.

A King Deposed is surely not looked upon as a King, by those who depose them; now if imprisoning, passing Votes of no further Addresse, doth not depose a King; I would fain know what doth?. Being in that condition, and guilty of so much blood as they all along declared him to be, when those words of the Covenant, of *Bringing all Delinquents to justice without respect of Persons*, should have come to be considered? How much further they might have proceeded, had not the power been snatched out of their hands by their Servants, as themselves had done to their Master; I leave to their past words and works to declare? They did indeed recall those Votes of no Addresse, and Treated with the King, but it was when they could no otherwise be rid of the Army, but by joyning with the King and Nation against them; and even then, they so perplexed the King, and protracted time with terms and punctilio's of procedure; and were so dissatisfied, with whatever the King offered, whilest they had the shadow of any power, that the Army had opportunity to break off that Treaty the Houses would not end.

That part of the Covenant that concerns *the Priviledge of Par-*

Parliament, Mr. *Baxter* and his side are very confident they have inviolably observed; let us and them consider what was before said of the Tumults and the Scots Army, the affronting and assaulting the Bishops, and other Lords; the posting up of the dissenting Members names of both Houses, and which is above all, their illegall turning men out for having a hand in some Parent, Monopoly or other, which they might as well have done, for having been guilty of any fault; having red Hair or a Roman Nose; which action, whether it did not null all their proceedings, *eo ipso*, as making it no House, by secluding men fairely elected, some make a very great question.

Before I take the Covenant, I shall make this one not unreasonable request, that I might know the Priviledges of Parliament first, and swear to them afterwards; one example may not be tedious.

On the 3d. of *January* 1641. It was declared, *To offer to Arrest or detain any member without first acquainting the House, is a breach of Priviledge*, Ex. Coll. p. 35. The palpable absurdity of this Doctrine being discovered by the King in one of his Declarations, and other Treatises in *Novemb.* 2. 1642. *They declare they have no such priviledge, but that any Minister of Justice, may Arrest a Member without order from the House, and detain him in custody till he may be brought to parliament.*

Whereas I represented the Covenanters to be pernicious enemies to every Government, their dealings with our late Tyrants, force me to retract part of that Assertion, or at least explain it, so as to be intended onely of lawfull ones; For to Usurpers they have shewed themselves friends and true Subjects. They will not molest their Prince, no not for their *Covenant*; provided he hath but a bad Title, let them see right trampled upon, they are contented, they ask no more.

The reasons of which prodigious dealing are these, *I am bound in Conscience to submit to the present Government; first, because a full and free Parliament hath owned it*, which is notoriously, the consent of the people; *which is, the evidence former Princes had to justifie their BEST TITLES.* Absurd, absurd, absurd! And *it is the opinion of* Grotius *upon Mat.* 22. 20. *That private men are not judges of the controvertible Titles of Princes*; And *Christ commanded to give*

tribute to Cæsar, because he was in possession. The first Assertion, that the consent of *Parliaments* was former *Princes* best Title, hath in it, I know not whether more of non-sense than treason; it sounds certainly strange in the ears of English-men, who have been hitherto told, that there was no *interregnum* here, the death of the former Prince, being all that was required to compleat the title of the latter, whom no act, no not an Attainder in Parliament could debar from his Throne, the Parliament deriving its Authority from the Writ of the Prince, without Authority from whom as King already, they could not have met: But here by the glorious name of Parliament, he means onely the House of Commons, the Other House being not at all elected by the People, and so not involving their consents.

Now that the House of Commons may give away, the Heire of the Crown, and all the Peers native Rights, to whom they please, even the meanest and most wicked Varlets is one of their very New Priviledges.

But Christ bad us pay tribute to Cæsar because he was in Possession.

Between which Case and ours, there is this difference: There the lawfull Magistrate receded from his Right, which in our Case was not done; The Romans title to that being not (as in most other places) meer Conquest but dedition. *Aristobulus* the younger brother getting possession by wrong: *Hircanus* the elder parted with his Right to the Romans, on condition they would conquer it by their Armes: He chose rather by their help to rule as a Deputy of theirs, then to keep a more noble title, he had no likelihood ever to enjoy; see Dr. *Hammond* on the place: The Romanes then had the right of him who had the very right; the onely remaining difficulty is, how *Cæsar* came to have the right of the Romanes, which notoriously was in the Senate and People: To which I say this, The Senate and people upon what inducement, it concerns me not to enquire at present, laid down their claim, parted with their power, submitted to, and acknowledged the Emperours to be their very good Lords: Pusillanimously I must confesse, and their own Historiens proclaim it, but *quilibet potest cedere juris sui*; If they parted with their right to *Cæsar*, then *Cæsar had it.* King *Charls* never did

did so, and *Res inter alios acta alteri nocere non debet*; I may now confidently say, this example reacheth not the question; but if it did, paying necessary Tribute is one thing, writing fine daintily fine canting Epistles is another, but this I will not at present urge, because Mr. *Baxter* shall not say I endeavour to disgrace him, but onely commend his, or his friends discretion, that one of his *Prefaces*, *viz.* that before his book of Church Government is very rarely to be met with of late times.

This argument tempts me to put this one question, by what name are those Ministers of this Nation to be known, that had rather *Richard Cromwel* should have raigned then King *Charls*?

I have now gone over so much of Mr. *Baxters* Books, as seemed in any degree argumentative; I have left out much which I might pertinently, and truly have urged, because I would not mention any thing which might seem exasperating: For I could heartily wish the Parliament could passe such an act of Oblivion, that all that is past may be not only pardoned but forgot: There hath certainly so much of folly as well as impiety been seen in our late Proceedings, that it were much for the credit of this present age; if posterity would give as little credit to those who tell them these things were so, as we fools did to those wise and honest men, who time enough before hand told us they would be so. If any thing in these papers seem offensive (though I have taken all possible care nothing should) to some men, who think the onely way to secure their honour and innocence is to be angry, I do assure them, the rubbing upon the sore places, was not to hinder the healing, or to vex, and inflame the distempred parts, but onely to free them from that errour of taking themselves to be whole already; If any thing here may be of use to any reader, I shall think my pains well bestowed, however I shall at any time gladly hazard, more then a little labour in the service of that cause I plead for.

FINIS.

Errata.

Page 5. l. 15. r. *infelicity*, l. 19. r. *supersetation*, l. 23. dele *onely* p. 7. l. 22. r. *no*, l. 37. r. *humanaque*, p. 17. l. 32. add *insist*, p. 18. l. 35. r. *nisi eum*, p. 20. l. 4. for *as* r. *or*, l. 8. dele *or*: p. 21. l. 28. r. *In the*, p. 26. l. 37. for *what*, r. *that*, p. 32. l. 7. dele *as* l. 13. add *of*, p. 41. l. 28. add *of*, p. 44. l. 37. r. *potest dedere*. There is some other small Errours in misplacing of points, which you are desired to mend with your pen.